

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

MIGUEL EMANUELLI, et al.

Petitioners

v.

WALDO F. RODRIGUEZ

Respondent

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Civil No. 04-1581 (SEC)

OPINION AND ORDER

This action came before the Court upon referral from the U.S. Bankruptcy Court for the District of Puerto Rico (Docket # 1). On April 13, 2003 a motion was filed in the Bankruptcy Court regarding the alleged misconduct of Attorney Waldo Rodríguez in the course of his representation in a Chapter 13 Bankruptcy case. Subsequently, the matter was referred to U.S. Magistrate Judge Aida Delgado-Colón for her Report and Recommendation (Docket # 2). Thereafter, on June 30, 2004, Magistrate Delgado-Colón issued her Report and Recommendation, concluding that probable cause existed to initiate disciplinary proceedings against Respondent Attorney Rodríguez since, from the facts before her, it appeared that Respondent may have violated Rules 1.1, 1.3 and 1.4 of the Model Rules of Professional Responsibility (Docket # 5). The Report and Recommendation was notified to Respondent on July 1, 2004 to his address of record.¹ To date, Respondent has not filed any objections to the Magistrate's report and the time allotted for doing so has expired. Therefore, the Court will **APPROVE** and **ADOPT** the Magistrate's Report and Recommendation.

Standard of Review

The scope of review of a Magistrate's recommendation is set forth in 28 U.S.C. §

¹ The electronic time stamp evinces that notice was mailed to Waldo F. Rodríguez at his address of record: Urb. Los Flamboyanes, 215 Calle Maria, Gurabo, PR 00778-2774. The record reflects, however, that previous mailings to Respondent at a different address, A-1, Calle 1, Urb. Sanfeliz, Corozal, PR 00783, were returned to the Court by the U.S. Postal Service.. Noticeably, mailings to the Gurabo address were not similarly returned.

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636(b)(1)(c). This section provides that “[a] judge of the [district] court shall make a de novo determination of those portions of the report or specified findings or recommendations to which [an] objection is made.” Id. The Court can “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate,” however, if the affected party fails to timely file objections, “the district court can assume that they have agreed to the magistrate’s recommendation.” Alamo-Rodríguez v. Pfizer Pharms., Inc., 286 F. Supp. 2d 144, 146 (D.P.R. 2003) (quoting Templeman v. Chris Craft Corp., 770 F.2d 245, 247 (1st Cir. 1985)). Thus, no review is required of those issues to which objections are not timely raised. Thomas v. Arn, 474 U.S. 140 (1985), reh’g denied, 474 U.S. 1111 (1986); Borden v. Sec’y of Health & Human Servs., 836 F.2d 4, 6 (1st Cir. 1987). In fact, a party who fails to file any objections to the Magistrate Judge’s Report and Recommendation within ten days of its filing waives his or her right to appeal from the district court’s order. Henley Drilling Co. v. McGee, 36 F.3d 143, 150-51 (1st Cir. 1994); United States v. Valencia-Copete, 792 F.2d 4, 5 (1st Cir. 1986); Davet v. Maccarone, 973 F.2d 22, 30-31 (1st Cir. 1992) (“[f]ailure to raise objections to the Report and Recommendation waives that party’s right to review in the district court and those claims not preserved by such objection are precluded on appeal”).

Analysis

Respondent has not objected to the Magistrate Judge’s Report and Recommendation, thus we are not required by law to review it. However, upon review, we find no fault with Magistrate Judge Delgado-Colón’s assessment and thus **APPROVE** and **ADOPT** her Report and Recommendation as our own. Respondent is hereby **ORDERED** to show cause, by **June 9, 2005**, why disciplinary procedures and sanctions are not warranted. The Clerk of the Court is instructed to notify this Order to Respondent’s address of record.

SO ORDERED.

In San Juan, Puerto Rico, this 20th day of May, 2005.

S/ *Salvador E. Casellas*
SALVADOR E. CASELLAS
United States District Judge